

**RECOVERY ACCOUNT —
APPLICATION FOR PAYMENT (Court)**

RE 807B (Rev. 9/01)

GENERAL INFORMATION

- Complete the application in its entirety and file in the court where the proration action has been filed.
- Attach extra paper if more space is needed.

APPLICATION FOR PAYMENT

1. CLAIMANT'S NAME

STREET ADDRESS		TELEPHONE NUMBER
CITY	STATE	ZIP CODE
ATTORNEY'S NAME (COMPLETE ONLY IF REPRESENTED BY AN ATTORNEY IN THIS RECOVERY APPLICATION)		
STREET ADDRESS		TELEPHONE NUMBER
CITY	STATE	ZIP CODE

2. List the name and address of judgment debtor(s).

<i>Name</i>	<i>Address</i>

3. Identification of the Judgment	A1. DATE OF CIVIL JUDGMENT OR DATE CRIMINAL RESTITUTION ORDER WAS ISSUED
	A2. COURT AND COURT FILE NUMBER

B. Itemized amount of judgment or restitution to be paid under a criminal restitution order (list the basis and amount of each element of compensatory damages awarded):

- 1) Court-awarded costs: \$ _____
- 2) Interest awarded, if any : * \$ _____
- 3) Punitive damages, if any: \$ _____
- 4) Attorney's fees, if any: \$ _____

* Explain below, from what date, at what rate, and on what amounts the interest was computed:

C. Attach to the Application a copy of the *civil judgment* or *criminal restitution order* bearing the court's file stamp.

4. Amount of claim against the Recovery Account: \$ _____

Note: By statute and decisional case law, only a claimant's "actual and direct loss," plus interest at the legal rate from the date of loss, and court costs, are payable from the Recovery Account. Therefore the actual and direct loss may differ from the amounts awarded in the judgment. Actual and direct loss usually does not include such things as loss of anticipated profits and attorneys fees, and never includes punitive damages. The following questions must be answered in order that it may be determined whether the amounts sought to be paid from the Recovery Account are allowable.

A. Itemize and explain how the amount of the claim was computed:

B. Itemize and explain the actual out of pocket loss upon which the claim against the Recovery Account is based:

- C. Itemize and explain any amount being claimed above and beyond the actual and direct loss and explain why it is believed that those amounts are collectible from the Recovery Account. Punitive damages are not collectible from the Recovery Account, and loss of anticipated profits and attorneys fees are also normally not collectible, so if anything is claimed for those items be sure to explain why it is asserted that those items are collectible.

5. Answer the following questions and provide the following information:

- A. Is the claimant a spouse of the judgment debtor or a personal representative of the spouse? ☐ Yes ☐ No
- B. Is the judgment upon which this claim is made a final judgment in a court of competent jurisdiction? ☐ Yes ☐ No
- C. Is the judgment based upon the defendant's fraud, misrepresentation, deceit, made with intent to defraud; or conversion of trust funds? ☐ Yes ☐ No
- D. Did the conduct of the defendant upon which the judgment is based arise directly out of a transaction in which the defendant was licensed by the Department of Real Estate?.. ☐ Yes ☐ No
- E. In the transaction referred to in "D" above, was the defendant performing acts for which the license held by the defendant was required? ☐ Yes ☐ No

F. Is there attached to the Application a description of all searches and inquiries conducted by or on behalf of the claimant with respect to the judgment debtor's assets liable to be sold or applied in satisfaction of a judgment, an itemized valuation of any assets discovered, and a description of the results of actions by the claimant to have the assets applied to satisfaction of the judgment? ☐ Yes ☐ No

G. Has the claimant diligently pursued collection efforts against other judgment debtors and all other persons liable to the claimant in the transaction that is the basis for the underlying judgment? ☐ Yes ☐ No

H. Has the claimant assigned or transferred all or any part of his/her interest in the judgment or criminal restitution order? ☐ Yes ☐ No

I. Was the Application mailed or delivered to the Department no later than one year after the underlying civil judgment became final or criminal restitution order was issued? ☐ Yes ☐ No

J. Does the claimant have any knowledge or information that any judgment debtor has filed or intends to file for bankruptcy protection? ☐ Yes ☐ No

K. Is the underlying judgment one based upon a determination of nondischargeability in a bankruptcy proceeding filed by the judgment debtor? ☐ Yes ☐ No

a. If yes to Item K, proceed to Item #6.

b. If no to Item K, did the judgment debtor file a bankruptcy? ☐ Yes ☐ No

1) If no to Item Kb, proceed to Item #6.

2) If yes to Item Kb, please answer the following:

a) When did the judgment debtor file bankruptcy? _____

b) Did the claimant file a claim in the bankruptcy? ☐ Yes ☐ No

If no, please explain why not.

c) Was any attempt made to have the debt to the claimant determined to be nondischargeable? ☐ Yes ☐ No

If no, please explain why not.

If yes, what was the result?

- d) Was the debt underlying the judgment, and/or the judgment, discharged in the bankruptcy proceeding? ☐ Yes ☐ No

If yes, when?

6. Attach to the Application a detailed narrative statement of facts, signed under penalty of perjury, explaining the allegations of the complaint upon which the civil judgment or criminal restitution order is based. This should be a coherent explanation of the claimant's relationship with the licensee, the nature of the transaction or transactions in which the claimant was involved with the licensee, and the nature of the involvement of any other person, particularly anyone else named as a plaintiff, defendant, cross-complainant, or cross-defendant. A *chronological* description is usually best.
7. Attach to the Application a statement by the claimant, signed under penalty of perjury, that the complaint upon which the underlying civil judgment is based was prosecuted conscientiously and in good faith. "Conscientiously and in good faith" means that no party potentially liable to the claimant in the underlying transaction was intentionally and without good cause omitted from the complaint, that no party named in the complaint who otherwise reasonably appeared capable of responding in damages was dismissed from the complaint intentionally and without good cause, and that the claimant employed no other procedural tactics contrary to the diligent prosecution of the complaint in order to provide access to the Recovery Account.

For an application based on a criminal restitution order, claimant must provide a statement, signed under penalty of perjury, that:

- The claimant has not intentionally and without good cause failed to pursue any person potentially liable to the claimant in the underlying transaction other than a defendant who is the subject of a criminal restitution order.
 - The claimant has not intentionally and without good cause failed to pursue in a civil action for damages all persons potentially liable to the claimant in the underlying transaction who otherwise reasonably appeared capable of responding in damages other than a defendant who is the subject of a criminal restitution order.
 - The claimant employed no other procedural means contrary to the diligent prosecution of the complaint in order to seek to qualify for the Recovery Account.
8. Explain the basis of the contention that the defendant was performing acts for which the license held by the defendant was required.

9. If the judgment debtor was licensed only as a salesperson at the time of the transaction, was the broker who employed the judgment debtor at the time sued? ☐ Yes ☐ No

If not, why not?

10. Was any person liable or potentially liable to the claimant in the transaction either not sued or dismissed from the lawsuit? ☐ Yes ☐ No

If so, explain why, and itemize any funds or other consideration received from that person or persons in settlement of the potential liability of that person or persons.

11. Submit copies of all documents relating to the transaction, i.e., escrow documents, loan servicing agreement, deeds of trust, notes, etc.
12. Attach a copy of the civil complaint, cross-complaint, or the amended version of those documents upon which the civil judgment is based, or in the case of an application based on a criminal restitution order, a copy of the criminal indictment or information, and a copy of any minute order, statement of decision, or other statement by the court explaining the basis for the judgment or criminal restitution order.
13. While this application is pending, claimant expressly agrees to notify the Recovery Account Unit in writing of any information he or she becomes aware of that any judgment debtor has filed for bankruptcy protection.
14. While this application is pending, claimant expressly agrees to notify the Recovery Account Unit in writing of any assignment or transfer of all or any part of his or her interest in the judgment or criminal restitution order

VERIFICATION**Verification by Claimant**

STATE OF CALIFORNIA, COUNTY OF _____

I am the Claimant in this Application; I have read the Application and all attachments thereto and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, as to which matters I believe them to be true; and I further certify that all documents attached to the Application are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, they are true and correct copies of the originals filed with the court.

Executed on _____ at _____, California.

I declare, under penalty of perjury, that the foregoing is true and correct.

*Signature***Verification by Attorney**

I am the attorney for the Claimant in this Application. The Claimant is absent from the County where I have my offices, and I make this verification for and on behalf of the Claimant for that reason. I have read the Application and all attachments thereto and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, as to which matters I believe them to be true; and I further certify that all documents attached to the Application are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, they are true and correct copies of the originals filed with the court.

Executed on _____ at _____, California.

I declare, under penalty of perjury, that the foregoing is true and correct.

*Signature***Verification by Out-of-State Claimant**

STATE OF CALIFORNIA _____ COUNTY OF _____

I am the Claimant in the Application; I have read the Application and all attachments thereto and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, as to which matters I believe them to be true; and I further certify that all documents attached to the Application are true and correct copies of the originals, and if such documents purport to be copies of documents filed in court, they are true and correct copies of the originals filed with the court.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

*Date*_____
Signature

SUMMARY

- A. The application should be completed and the following items attached:
1. A copy of the judgment or criminal restitution order bearing the court's file stamp.
 2. The detailed narrative statement of the facts referred to in Item 6.
 3. The description of searches and inquiries referred to in Item 5F.
 4. The good faith statement referred to in Item 7.
- B. The Application should also contain as attachments all documents relating to the underlying transaction which is the basis of the Recovery Account Application.
- C. As to the Application and all documentation submitted with it, the appropriate Verification must be signed.

PRIVACY NOTICE: Section 1798.17 of the Civil Code requires this notice be provided when collecting personal or confidential information from individuals. *Each individual has the right to review personal information maintained by this Agency, unless access is exempted by law.*

Department of Real Estate
2201 Broadway
Sacramento, CA 95818

Recovery Account Counsel
Sacramento Legal Section
Telephone: (916) 227-0787

Business and Professions Code Section 10471(b) and (c) require each applicant to submit all of the information required in support of an application for payment for the Recovery Account.

All of the information required in the application is mandatory. If all or any part of the required information is not provided, processing of the application for payment may be delayed until the identity of the applicant and the details of the transaction upon which the application is based can be adequately verified.

The information requested in this application is used to verify the identity of the applicant and the details of the transaction upon which the application is based.

This information may be transferred to real estate licensing agencies in other states, law enforcement agencies (City Police, Sheriff's Departments, District Attorneys, Attorney General, F.B.I.) and any other regulatory agencies (i.e., Department of Corporations, Department of Insurance, Department of Consumer Affairs, California Bar Association).